



United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-226414

July 7, 1987

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Lakewood, Colorado 80229

Gentlemen:

This is in response to the request from the Oil, Chemical and Atomic Workers Union, through your office, for a decision pursuant to 4 C.F.R. § 22.1 et seq., regarding matters between the union and the Bureau of Mines - Helium Field Operations, U.S. Department of the Interior. The union objects to a legal decision issued by the Department of the Interior, Office of the Solicitor, which apparently states that the pay caps in Public Law No. 97-35, 95 Stat. 357, 753, are applicable to union employees of the Oil, Chemical and Atomic Workers Union, Local 4-487, who are under a collective-bargaining agreement with the Bureau of Mines - Helium Field Operations, Department of the Interior, and that the pay caps are applicable retroactively to August 13, 1981.

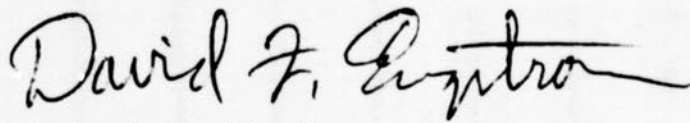
The union has requested a decision by the Comptroller General regarding the applicability of the pay cap to its workers, asserting that these employees are exempt from the pay caps as being covered by section 9(b), Public Law No. 92-392, 86 Stat. 564, 574. The Union asks that the Comptroller General reverse the legal decision made by the Department of the Interior. In addition, it asks for full and complete waiver of all amounts paid to employees in excess of the allegedly applicable pay caps.

As noted by the agency, the Comptroller General will not issue a decision or comment on the merits of a matter which is subject to a negotiated grievance procedure authorized by 5 U.S.C. § 7121, except upon a joint request of the agency and labor organization. 4 C.F.R. § 22.7. The agency has objected to our involvement in this matter by letter dated

April 24, 1987, noting that two grievances and an unfair labor practice charge have been filed by the union in this matter pursuant to a negotiated grievance procedure authorized by 5 U.S.C. § 7121.

Accordingly, our Office will not issue a decision in this matter.

Sincerely yours,

for 
Robert L. Higgins
Assistant General Counsel

cc: Beatrice G. Chester, Esq.
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